

REMARKS

The Office Action mailed January 25, 2008 has been received and carefully noted. Claims 1-27 are currently pending in the subject application and are presently under consideration.

Claims 1-4, 6, 10-12, 18-22, and 24 have been amended herein. Support for the amendments can be found in at least Figure 1 and paragraphs 0026-0029 of the Specification. Therefore, no new matter has been presented in the amendments and entry thereof is respectfully requested. A listing of claims can be found on pages 2-6 of this Reply.

Favorable reconsideration of the pending claims is respectfully requested in view of the amendments and following comments.

I. Rejection of Claims 1, 18, and 25 Under 35 U.S.C. § 102(e)

Claims 1, 18, and 25 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Brady, Jr. *et al.* (U.S. 2006/0010438). It is respectfully requested that these rejections be withdrawn for at least the following reason. Brady, Jr. *et al.* does not describe each and every element of the claims.

For a prior art reference to anticipate, 35 U.S.C. §102 requires that “***each and every element*** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”

In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (*quoting Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)) (emphasis added). In particular, amended independent claims 1 and 18 recite:

storing a configuration for a distributed environment, which includes a first node, in a central storage of the distributed environment; and
updating a portion of the configuration by the first node in the distributed environment, the first node separate from the central storage.

Brady, Jr. *et al.* fails to expressly or inherently describe these aspects.

The Examiner notes the Abstract, Figures 5, 8, and 9, and paragraphs 0099 and 0101-0109 of Brady, Jr. *et al.* as relating to “updating a portion of the configuration” (*See* Office Action mailed January 25, 2008, pg. 3). However, Brady, Jr. *et al.* does not disclose the limitations of independent claims 1 and 18 as amended.

The various cited portions of Brady, Jr. *et al.* disclose a “configuration server” and a “download server” for updating software on, for example, an in-flight entertainment system on an airplane (*See* Brady, Jr. *et al.*, Abstract). The “configuration server” checks the configuration of multiple line replaceable units on the airplane (*See Id.* at paragraphs 0015 and 0099). The “download server” downloads the software to the multiple line replaceable units on the airplane (*See Id.* at paragraphs 0015, 0108, and 0109). Independent claims 1 and 18 recite that a first node updates a portion of the configuration in a central storage of a distributed environment that includes the first node. In Brady, Jr. *et al.*, none of the line replaceable units on the airplane would update a configuration stored in a central storage. Instead, these line replaceable units receive software updates from the “download server” without altering the configuration that resides on a storage location.

Further, The Examiner fails to provide a *prima facie* case against novelty for independent claim 25. To establish a *prima facie* case against novelty, “[w]hen a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified” (*See* MPEP § 706; 37 CFR § 1.104(c)(2)).

The Office Action mailed January 25, 2008 fails to designate the particular part of Brady, Jr. *et al.* relied on for the rejection of independent claim 25 (*See* Office Action mailed January 25, 2008, pg. 3), which is required to establish a *prima facie* case against novelty. The Examiner states that all of the limitations of independent claim 25 are included in independent claim 1; however independent claim 25 recites limitations different from independent claim 1 which were not addressed (*i.e.*, means for maintaining consistent storage of configuration information in a distributed environment; means for controlling access to the configuration information; and means for interfacing with a relational database system to provide persistent storage of the configuration information). For example, the Examiner does not indicate and the Applicant does not discern any part of Brady, Jr. *et al.* that discloses “means for controlling access to the

configuration information.” Brady, Jr. *et al.* does not appear to disclose any aspects of control regarding the stored configuration information since the line replaceable units do not take an active part in accessing any configuration information. Rather, the line replaceable units passively receive their software downloads. Therefore, the Examiner failed to provide a *prima facie* case against novelty for independent claim 25.

In view of at least the foregoing, reconsideration and withdrawal of the rejections of independent claims 1, 18, and 25 are respectfully requested.

II. Rejection of Claims 2-6, 10, 11, 17-22, and 24 Under 35 U.S.C. § 103(a)

Claims 2-6, 10, 11, 17-22, and 24 stand rejected under 35 U.S.C. § 103(a) as being obvious over Brady, Jr. *et al.* and E *et al.* (U.S. 2004/0019639). It is respectfully requested that these rejections be withdrawn for at least the following reason. Brady, Jr. *et al.* and E *et al.*, alone or in combination, do not teach or suggest all the claim limitations expressly, impliedly, or obviously.

To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.

Ex parte Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). See MPEP § 706.02(j). In particular, independent claim 11 recites:

A system comprising:

- a plurality of nodes each having an instance of a configuration manager to maintain consistent storage of a configuration across the nodes without passing configuration modifications between the nodes;

- a locking server shared by the plurality of nodes to coordinate access to the configuration; and

- a database management system to provide an interface with a shared relational database, the database to store the configuration.

The Examiner states that claims 11 and 17 “are corresponding apparatus claims of claim1-6 [*sic*] and 10; therefore, they are rejected under the same rationale” (*See* Office Action mailed January 25, 2008, pg. 6).

As held in *In re Royka* and *In re Wilson*, **all claim limitations** must be taught or suggested in the prior art to establish *prima facie* obviousness. Even if Brady, Jr. *et al.* described each and every limitation of the method claims, *prima facie* obviousness of a system claim is not automatically established. Since the Examiner has not identified the particular aspects of Brady, Jr. *et al.* that correspond to each and every claim limitation of independent claim 11, *prima facie* obviousness has not been established.

The Applicant does not believe that a combination of Brady, Jr. *et al.* and E *et al.* is proper. To establish a *prima facie* case of obviousness, there must be a motivation to combine the teachings of Brady, Jr. *et al.* and E *et al.* found either in the references themselves or as viewed by one of ordinary skill in the art.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, ***there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.*** Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

See MPEP § 2143 (emphasis added). In addition, the combination of Brady, Jr. *et al.* and E *et al.* cannot change the principle of operation.

If the proposed modification or combination of the prior art would ***change the principle of operation*** of the prior art invention being modified, then the teachings of the references are ***not sufficient*** to render the claims *prima facie* obvious.

In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). *See* MPEP § 2143.01(VI) (emphasis added). The Examiner does not indicate why it would be obvious to one of ordinary skill in the art to combine Brady, Jr. *et al.* and E *et al.* in various rejections of the Office Action mailed January 25, 2008, including the rejection of independent claim 11. Instead, in the rejection of independent claim 11, the Examiner cites the sections of E *et al.* that allegedly teach the configuration manager and asserts sections of Brady, Jr. *et al.* that allegedly teach the limitations

of the method claims without further mention of how the two references may be properly combined (*See* Office Action mailed January 25, 2008, pg. 6).

The Applicant respectfully submits that Brady, Jr. *et al.* and E *et al.* are not properly combinable because their teachings are technologically incompatible. For instance, the Examiner does not indicate and the Applicant does not discern any part of Brady, Jr. *et al.* that teaches “a locking server shared by the plurality of nodes to coordinate access to the configuration.” However, any alteration of Brady, Jr. *et al.* to include this aspect would be improper. Brady, Jr. *et al.* provides for “a configuration checking and software downloading method that operates in a parallel manner” (*See* Brady, Jr. *et al.*, paragraph 0010). Brady, Jr. *et al.* teaches a “configuration server” for checking the configuration of line replaceable units and a “download server” for downloading software to the line replaceable units. Brady, Jr. *et al.* teaches updating software configurations of in-flight entertainment systems of airplanes in a speedy manner so that the procedure may be completed within the short time window typically allotted for maintenance, *e.g.*, during the time when the plane is at the gate for unloading and loading between flights (*See* Brady, Jr. *et al.*, Abstract, paragraphs 0005 and 0006). Brady, Jr. *et al.* does not teach a locking server as recited in the claims because such server would be inappropriate, as the line replaceable units do not actively “pull” any software configuration data from a storage location and therefore do not need to be “locked” out. In Brady, Jr. *et al.*, the software configuration updates are “pushed” onto the line replaceable units. Thus to alter Brady, Jr. *et al.*’s implementation to include a locking server would be to change Brady, Jr. *et al.*’s principle of operation, which is improper according to MPEP § 2143.01(VI).

The dependent claims depend from one of the independent claims, thus incorporating the respective limitations thereof. For at least the above reasons relating to the independent claims, Brady, Jr. *et al.* and E *et al.*, alone or in combination, do not teach or suggest all the claim limitations the dependent claims. Accordingly, it is respectfully requested that these rejections be withdrawn.

III. Rejection of Claims 7, 8, 12-14, 23, and 27 Under 35 U.S.C. § 103(a)

Claims 7, 8, 12-14, 23, and 27 stand rejected under 35 U.S.C. § 103(a) as being obvious over Brady, Jr. *et al.*, in view of E *et al.*, and further in view of Vahalia *et al.* (US 2005/0251500). Each of these claims depends from one of the independent claims, thus

incorporating the respective limitations thereof. The Examiner does not contend and the Applicant does not discern any part of Vahalia *et al.* that cures the aforementioned deficiencies of Brady, Jr. *et al.* and E *et al.* with respect to the independent claims. Thus, Brady, Jr. *et al.*, E *et al.*, and Vahalia *et al.*, alone or in combination, fail to teach or suggest all the claim limitations of the dependent claims. Reconsideration and withdrawal of these rejections are respectfully requested.

IV. Rejection of Claims 9, 15, 16, and 26 Under 35 U.S.C. § 103(a)

Claims 9, 15, 16, and 26 stand rejected under 35 U.S.C. § 103(a) as being obvious over Brady, Jr. *et al.*, in view of E *et al.*, and further in view of the Applicant's alleged admission of prior art. Each of these claims depends from one of the independent claims, thus incorporating the respective limitations thereof. The Examiner does not contend and the Applicant does not discern any part of the Applicant's alleged admission of prior art that cures the aforementioned deficiencies of Brady, Jr. *et al.* and E *et al.* with respect to the independent claims. Thus, Brady, Jr. *et al.*, E *et al.*, and the Applicant's alleged admission of prior art, alone or in combination, fail to teach or suggest all the claim limitations of the dependent claims. Reconsideration and withdrawal of these rejections are respectfully requested.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted to the United States Patent and Trademark Office electronically via EFS Web on the date shown below.

R. Fiore
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4/10/08

Date